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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,939	01/29/2002	Mark LeVake	21958-022	7162
35437	7590	03/30/2005	EXAMINER	
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO 666 THIRD AVENUE NEW YORK, NY 10017				LANEAU, RONALD
ART UNIT		PAPER NUMBER		
		3627		

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/059,939	LEVAKE ET AL.	
	Examiner	Art Unit	
	Ronald Laneau	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 January 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12,20-22,37,38 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12,20-22,37,38 and 40-42 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04042003;10212002
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: IDS: 05062002

DETAILED ACTION

1. Claims 1-50 are presented for examination.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-12, 20-22, 37, 38, 40-42, drawn to electronic payment for products dispensed from a vending machine, classified in class 705, subclass 17.
 - II. Claims 13-19, drawn to monitoring inventory in a vending machine, classified in class 705, subclass 22.
 - III. Claims 23-36, 39, 43-50, drawn to settling a credit transaction from a point of sale device, classified in class 705, subclass 16.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Invention I which is an enabling device for enabling electronic payment for products dispensed from a vending machine is different from Invention II which is a method for monitoring inventory in a vending machine and both are different from Invention III which is a method of settling a credit transaction from a point of sale device.

Art Unit: 3627

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II nor group III, restriction for examination purposes as indicated is proper.
6. During a telephone conversation with Mr. Bryan Hopkins on 03/09/05 a provisional election was made with traverse to prosecute the invention of group I, claims 1-12, 20-22, 37, 38, 40-42. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-19, 23-36, 39, 43-50 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-12, 20-22, 37, 38, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Defosse (US 6,457,038 B1) in view of Kolls (US 6,321,985 B1).

As per claims 1 and 6, Defosse discloses a vending machine having a vending machine controller with a DEX interface 54 and a multi-drop-bus interface 56, an Enabler comprising: a wireless data network transceiver 66 linked to said DEX interface 54 (col. 6, lines 10-15, fig. 2); and a micro-controller 64 in communication with said transceiver 66 and connected to said multi-drop-bus interface 56 (col. 6, lines 19-20, fig. 2). Defosse does not explicitly disclose an enabling device for enabling electronic payment for products dispensed from said vending

Art Unit: 3627

machine and for communicating information between said vending machine and a remote computer and a card reader for entering credit card account information but Kolls discloses a system for networking and controlling vending machines wherein electronic payment can be done for products dispensing from the vending machine, a card reader for entering credit card account information (col. 7, lines 1-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the electronic payment for a vending machine as taught by Kolls into the system of Defosse because it would eliminate inaccurate counting/reporting, collection and depositing of cash into the slot of the vending machine.

As per claim 2, Kolls discloses a display 14 for customer to view their item using a vending machine (see fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the display as taught by Kolls into the system of Defosse because it would make it easier for customers to view the items being purchase for accuracy purposes.

As per claim 3, Kolls discloses vending machine wherein said credit account reader is selected from the group consisting of a magnetic swipe reader as claimed Col. 7, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the magnetic card reader as taught by Kolls into the system of Defosse for the same reasons given in claim 1.

As per claim 4, Kolls discloses at least a speaker 22 seen in figure 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the speaker as taught by Kolls into the system of Defosse because it would allow blind people to listen to their selection for accuracy purposes.

As per claim 5, Defosse discloses vending machine wherein said transceiver is operated on a wireless network selected from a broadband PCS as claimed (col. 4, lines 29-32).

As per claim 7, Defosse discloses a vending machine wherein said interface comprises a first data communications interface for communicating information between said vending machine controller and said transceiver and a second interface for communication between said micro-controller and said vending machine controller (see fig. 2).

As per claims 8, 10, 20, 21 and 40-42, Defosse discloses a system for managing information from a vending machine comprising: a DEX enabled vending machine 54 including: a vending machine controller for managing operation of the vending machine and having memory 70 for storing information related to the operation of said vending machine and information related to at least one of the inventory of vended product and sales of the vended product; (fig. 1, 16) a DEX interface 54 for transferring audit data from said vending machine controller; a multi-drop-bus 56 for connection of peripheral devices to said vending machine controller (col. 6, lines 19-20, fig. 2); an Enabler device comprising: a wireless data network transceiver 66 linked to said DEX interface 54; a micro-controller 64 in communication with said transceiver 66 and connected to said multi-drop-bus interface 56. Defosse does not disclose remote computer in communication with a computer network, a card reader for entering credit card account information but Kolls discloses a card reader for entering credit card account information (col. 7, lines 1-27); a remote computer having a database for storing information

Art Unit: 3627

obtained from a DEX enabled vending machine 54, said remote computer in communication with a computer network; a wireless data network in communication with said computer network.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the card reader for a vending machine as taught by Kolls into the system of Defosse because it would eliminate inaccurate counting/reporting, collection and depositing of cash into the slot of the vending machine.

As per claim 9, Kolls discloses a display 14 for customer to view their item using a vending machine (see fig. 1).

As per claim 11, Defosse discloses a system wherein said interface comprises a first interface for communicating information between said transceiver and vending machine controller, and a second interface linking said micro-controller to said vending machine controller for transferring vend approval and vend denied information as a result of the input of a credit account for the purchase of vended product (see fig. 2).

12. The system according to claim 11, wherein said first interface comprises a DEX interface (fig. 1, 54) and said second interface comprises a multi-drop interface (fig. 2, 56).

As per claims 22, 37 and 38, Defosse discloses a method for updating a product database in a remote vending machine comprising: providing a vending machine having a vending machine controller in communication with a wireless transceiver 66 for communicating with a remote computer on a computer network via a wireless data network (col. 9, lines 14-25). Defosse does not disclose sending a command from said remote computer to said vending machine but Kolls discloses a remote computer 42 wherein sending a command from said remote

Art Unit: 3627

computer to said vending machine said command for changing writable fields of said database with new information; sending said new information from said remote computer; and storing said new information in said writable fields (see fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the remote computer as taught by Kolls into the system of Defosse because it would be able to control the transaction of the vending machine from a remote location.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kolls (US 6,505,095 B1) discloses a system for providing remote audit, cashless payment, and interactive transaction capabilities in a vending machine.
- Defosse et al (US 2004/0133653 A1) disclose a system, method and apparatus for vending machine wireless audit and cashless transaction transport.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Laneau

Ronald Laneau
Examiner
Art Unit 3627

3/11/05

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